

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of
Enbridge Energy, Limited Partnership
for a Certificate of Need for the Line 67
Station Upgrade Project in Marshall,
Clearwater, and Itasca Counties

SUMMARY OF PUBLIC TESTIMONY

Administrative Law Judge James E. LaFave held two public hearings in this matter pursuant to a Notice of Public Hearings dated February 12, 2013.¹ The first hearing was held at the Clearbrook City Gym, 200 Elm Street SE, Clearbrook, MN, on March 19, 2013 at 6:30 p.m. The second hearing was held on March 20, 2013 at American Legion Post 122/VFW 2720, 12 First Street NE, Deer River, MN, also at 6:30 p.m.²

Enbridge Energy Limited Partnership (Enbridge) is planning to increase the capacity of its Line 67 Pipeline. Enbridge proposes to upgrade three station sites by installing new pumping units in Enbridge's Viking, Clearbrook and Deer River stations. These upgrades, if approved, will enable Enbridge to increase annual average capacity of its Line 67 Pipeline from 450,000 barrels per day (bpd) to 570,000 bpd, an increase of 120,000 bpd (the Project). The hearings were held to take public comment regarding the need for the Project.

Appearances: Kevin Walli and John Gasele, Fryberger, Buchanan, Smith & Frederick, PA, appeared on behalf of the Applicant, Enbridge; accompanied by Randy Rice, Enbridge Project Director; Jeff Jurgens, Enbridge Supervisor of Engineering and Construction; Tim Drake, Enbridge Senior Environmental Consultant; and John Pechin Operations Manager for Enbridge. Michael Kaluzniak, staff member, Public Utilities Commission, was also present.

¹ See, Notice of Public Hearings and Revised Comment Periods On The Merits of the Application of Enbridge Energy, Limited Partnership For a Certificate of Need For The Line 67 Upgrade Project in Marshall, Clearwater and Itasca Counties, Minnesota, dated February 12, 2013.

² An additional hearing was originally scheduled for March 18, 2013, in Viking, Minnesota. That hearing was cancelled due to a blizzard which caused "white-out" conditions and forced the closure of the roads in the area.

Before increasing the capacity of a large energy facility, including increasing, within a period of two years, an existing large petroleum pipeline in excess of either 20 percent of its rated capacity or 10,000 barrels per day, an entity must first obtain a Certificate of Need from the Minnesota Public Utilities Commission by demonstrating that the upgrade is needed.³ Enbridge is therefore required to seek a Certificate of Need for the Project. The Public Utilities Commission concluded that the application should be examined and acted upon through informal proceedings.⁴ It referred the case to the Office of Administrative Hearings to conduct public hearings and to file a written summary of the public hearings with the Commission.

Approximately 79 members of the public attended the public hearings. The record remained open until April 5, 2013, to allow all interested persons the opportunity to submit written comments. Reply comments were accepted through May 3, 2013. Twenty-seven members of the public filed written comments. The record closed on May 3, 2013.

PROCEDURAL HISTORY

1. Enbridge owns and operates the 999-mile Line 67 Pipeline which transports crude oil from Enbridge's facilities in Hardesty, Alberta, Canada, to Enbridge's terminal and tank farm facility located in Superior, Wisconsin.⁵

2. On October 8, 2012, the Applicant filed its application for a Certificate of Need for the Project with the Commission.

3. The Project would enable Enbridge to increase Line 67's annual average capacity from 450,000 (bpd) to 570,000 (bpd) through the addition of pump horsepower at existing facilities. All station upgrades will be constructed on lands already owned by Enbridge at the existing station sites. No new land will be required in Minnesota. No new pipe will be required along the pipeline route outside of the stations.⁶

4. The Commission issued an Order Finding Application Substantially Complete And Initiating Informal Review Process on December 17, 2012. The Order directed Commission staff to work with the Administrative Law Judge and Department staff in selecting suitable locations for a public hearing on the application.

5. Notice of the Public Hearings was published in the following local newspapers on the specified dates:

The Aitkin Independent Age (Aitkin, MN) – February 27, 2013

The Bagley Farmers Independent (Bagley, MN) – February 27, 2013

³ Minn. R. 7853.0030, item D.

⁴ See, Order Finding Application Substantially Complete, and Initiating Informal Review Process, dated December 17, 2012.

⁵ *Enbridge Energy, Limited Partnership MN PUC Application, October 2012, Docket No. PL-9/CN-12-590* (Ex. 1 – Application) at 1.

⁶ Ex. 1 at 2-3 (Application)

The Bemidji Pioneer (Bemidji, MN) – February 24, 2013

Carlton County Star-Gazette (Moose Lake, MN) - February 28, 2013

Cass Lake Times (Cass Lake, MN) – February 27, 2013

Cloquet Pine Journal (Cloquet, MN) – February 28, 2013

Crookston Daily Times (Crookston, MN) – February 25, 2013

Deer River Western Itasca Review (Deer River, MN) – February 28, 2013

Duluth Budgeteer News (Duluth, MN) – February 22, 2013

Duluth News - Tribune (Duluth, MN) – February 27, 2013

The Exponent (East Grand Forks, MN) – February 27, 2013

Erskine Echo (Erskine, MN) – February 28, 2013

Fertile Journal (Fertile, MN) – February 27, 2013

Floodwood Forum (Floodwood, MN) – March 7, 2013

Floodwood Portage News (Floodwood, MN) – February 26, 2013

Fosston Thirteen Towns (Fosston, MN) – February 26, 2013

Gonvick Leader Record (Gonvick, MN) – February 27, 2013

Grand Rapids Herald Review (Grand Rapids, MN) – February 24, 2013

Hallock Kittson County Enterprise (Hallock, MN) – February 27, 2013

Hermantown Star (Hermantown, MN) – February 28, 2013

Karlstad North Star News (Karlstad, MN) – February 28, 2013

McGregor Voyageur Press of McGregor (McGregor, MN) – February 26, 2013

Minneapolis Star Tribune (Minneapolis, MN) – February 27, 2013

Cass Lake Times (Cass Lake, MN) – February 27, 2013

Grand Forks Herald (Grand Forks, ND) – February 28, 2013

Nevis Northwoods Press (Nevis, MN) – February 27, 2013

Oklee Herald (Oklee, MN) – February 27, 2013

Park Rapids Enterprise (Park Rapids, MN) – February 27, 2013

Proctor Journal (Proctor, MN) – February 28, 2013

Red Lake Falls Gazette (Red Lake Falls, MN) – February 27, 2013

Scenic Range (Bovey, MN) – February 28, 2013

St. Paul Pioneer Press (St. Paul, MN) – February 27, 2013

Stephen Messenger (Stephen, MN) – February 28, 2013

Thief River Falls – Northern Watch (Thief River Falls, MN) – March 2, 2013

Thief River Falls – Times (Thief River Falls, MN) – February 27, 2013

Pilot – Independent (Walker, MN) – February 27, 2013.⁷

6. The Administrative Law Judge convened each public hearing and explained that the purpose of the public hearings was to solicit public comments regarding the need for the proposed Project. At each hearing, Enbridge made a short presentation explaining the need for and the elements of the Project, and Mr. Kaluzniak briefly explained the process followed by the Commission in deciding whether to grant the Certificate of Need.

SUMMARY OF PUBLIC TESTIMONY

The March 19, 2013, Clearbrook public hearing

1. Approximately 41 members of the public attended the hearing in Clearbrook and 34 signed the hearing register. The first speaker was Cheryl Grover, the Clearbrook County Assessor. She questioned whether the line was designed to handle the increased pressure. Jeff Jurgens, an engineer for Enbridge, assured her that when the line was originally designed in 2008 it was specifically designed to handle up to 800,000 bpd, well in excess of the proposed 570,000 bpd. Ms. Grover also stated that over 60 percent of the property taxes in Clearbrook County are paid by the pipeline and power companies.⁸

2. Five people spoke in favor of the Project. Three were from the Bemidji firm of Karvakko Engineering. Mr. Karvakko, the owner, praised the practices and procedures Enbridge uses when working on a project. He also commended Enbridge's dedication to the public well-being and safety. Kellie Dixon, Karvakko Engineering, emphasized Enbridge's commitment to safety, not just for Enbridge's own employees, but also for contractors and anyone who sets foot on their sites. John McMahon, also of Karvakko, pointed to the positive impact Enbridge has provided to the community. He

⁷ Affidavits of Publication for each newspaper were filed with the Commission on March 15, 2013.

⁸ Transcript of Hearing held on March 19, 2013, in Clearbrook, Minnesota.

also endorsed Enbridge's safety practices and their commitment to environmental responsibility. Ken Oraskovich lives in the Clearbrook area and is a businessman and former firefighter. He stated that Enbridge provided training for the local fire department. Jim Gustafson is a part owner of a construction company in Clearbrook. He stated that the company would not be in business if not for Enbridge. He also testified about the huge positive economic impact Enbridge has had on the community, not only for his business, but for hotels, hardware stores, grocery stores, and cafes.⁹

3. Nine people spoke in opposition to the Project, some of them multiple times. The comments were grouped around several common themes. The views of the following people were representative of those themes. Marty Cobenais spoke for himself and on behalf of the Indigenous Environmental Network located in Bemidji, Minnesota. He noted that the oil transported through the pipeline comes from Canada and he is concerned about the environmental impact that extraction of the oil is having and its impact on natives. He is also concerned about Enbridge's safety record. He stated that in the last ten years there have been five spills within the Leech Lake boundaries alone. Mr. Cobenais questioned if there was an explosion at the Clearbrook facility, would there be enough water to handle the fire? Also, does Enbridge have an emergency response team close enough to be of help? John Pechin, Enbridge, responded that there is a fire plan and that Enbridge has worked with the local fire department.¹⁰

Liz Dahl stated she did not believe Enbridge's proposed upgrade would benefit the citizens of Minnesota. She pointed out that a spill associated with the proposed Project would likely harm wildlife, water quality and agricultural practices. Ms. Dahl noted that tar sand oil is being shipped through Enbridge's pipeline, and that tar sand oil is the most inefficient and dirtiest form of oil extraction. Mr. Chester is concerned that a leak would lead to benzene contaminating the ground water.

Kathy Hollander stated she reviewed Enbridge's Certificate of Need filing. She argued the facts do not support Enbridge's claimed need for increased capacity. Ms. Hollander also passionately argued that tar sand oil contributes to greater global carbon emissions, contributing to global warming. In response to Ms. Hollander's challenge, Mr. Rice, Enbridge, stated that Enbridge does not own the oil, the Company only ships it. He stated Enbridge has been contacted by clients and that by 2014, Enbridge will need the additional capacity to meet the increased demand of its customers.¹¹

The March 20, 2013, Deer River public hearing

4. Approximately 38 people attended the hearing in Deer River, and 24 signed the hearing register. John Peterson, who works for Northwestern Surveying and Engineering, spoke in favor of the Project. He stated that Minnesotans need the oil

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

supply and that the Project will provide good, union paying jobs. Mr. Peterson noted that Enbridge has donated money to Habitat for Humanity in Bemidji.¹²

5. Fifteen people spoke in opposition to the Project, some of them multiple times. The comments were grouped around several common themes. The views of the following people were representative of those themes. Marty Cobenais and John Munter claimed that most spills occur at pumping stations. Mr. Munter referenced an Enbridge spill in Kalamazoo, Michigan, that occurred two years ago. He stated that the cleanup still has not been completed. Randy Rice, Enbridge, responded that the cleanup is underway under the direction of the EPA, and that the Kalamazoo River opened up for recreational use last June. He also stated that Enbridge has a firm commitment to leave the Kalamazoo River cleaner than it was before the spill.

Norley Hanson expressed concern about the effect of increased pressure through the pipes. He worried if there was a rupture it would lead to a significant spill. Mr. Hanson cited a spill ten years ago in Cohasset, Minnesota, that still has not been fully mitigated. Jeff Jurgens, Enbridge, replied that the pipeline was designed and tested to handle a higher pressure than is being requested in this Certificate of Need. John Pechin, Enbridge, stressed that Enbridge's goal is to not have any oil spills. When there are issues, Enbridge goes out and fixes them. John Schirber, Giiwedini Biindige, and others believe the pipeline is a threat to the environment and spoke about the need to protect the earth and our fragile ecosystem. Mr. Schirber asked what this Project would return to the community. Mr. Rice of Enbridge responded that an outside firm calculated that there would be local tax benefit of \$.6 million, and a total economic benefit to the community of \$90 million.¹³

6. At the Deer River, Minnesota, hearing, Liz Dahl presented a written request for an additional public hearing in St. Paul, Minnesota, before the commissioners of the Public Utilities Commission. Shortly thereafter, approximately 40 other people e-mailed the Administrative Law Judge requesting a public hearing in the Twin Cities.¹⁴ The reasons and issues given in support of the new hearing were nearly identical to the issues and topics that were fully discussed at the hearings in Clearbrook and Deer River. The Administrative Law Judge consulted with Commission staff and Department of Commerce staff regarding the possibility of holding a public hearing in the Twin Cities. In addition, the Applicant was given an opportunity to respond.

The law requires only one public hearing.¹⁵ Two hearings were held. Given the similarity of issues raised and considering the cost and timing involved in a new hearing, the Administrative Law Judge denied the request for an additional hearing in St. Paul.¹⁶

¹² See, Transcript of Hearing held on March 20, 2013, in Deer River, Minnesota.

¹³ *Id.*

¹⁴ See, Transcript of Hearing held on March 20, 2013, in Deer River, Minnesota; Ex. 7; and Public Comments.

¹⁵ See, Minn. Stat. § 216B.243, subd. 4.

¹⁶ See, April 3, 2013, e-mail from Administrative Law Judge James E. LaFave.

Summary of the Written Comments

Twenty-seven written comments were received by the Administrative Law Judge before the close of the post-hearing comment period. The comments were grouped around several common themes. The views of the following people were representative of those themes.

7. *Mark Mandich*, Commissioner, Itasca Board of Commissioners, wrote to state his support for the Enbridge Line 67 Upgrade Project.

8. *Ivan Stauffer and Kimberly Stauffer* of Lenard, Minnesota, wrote to support the Project. They note that it is important to produce and deliver oil in America. They also believe this Project will help employ Americans and lead to a reasonable price for oil.

9. *Susan Koch* of Mendota Heights, Minnesota, stated that Line 67 is transporting diluted bitumen (dilbit). She asserts that dilbit is more corrosive and abrasive to the pipes. Dilbit is also considered particularly difficult to clean up, especially when it spills into a body of water. Because of its higher density dilbit sinks to the bottom before it can be contained. Ms. Koch believes that oil spills are an integral part of transporting oil and that the potential for an oil spill increases and needlessly jeopardizes the land and waters of northern Minnesota.

10. *Linda Littrell* of St. Paul, Minnesota, wrote to express concerns over the environmental and sociological impacts of the Project. She quotes NASA's Chief Climatologist Jim Hanson, who stated that the continued expansion of tar sand oil pipelines "will exacerbate global warming and put the U.S. on the hook for spills and environmental degradation, all in service to one of the planet's dirtiest fuels."

11. *Anne Newhart and Craig Rostal* were joined by 31 others, who also wrote to express their concern that the flow of imported dilbit is detrimental to the already serious global warming crisis. They assert the inevitable spills will be extremely toxic and difficult if not impossible to clean up. They also believe that the increased flow of dilbit will not benefit Minnesota as it is destined for refineries in Chicago and the Gulf Coast.

12. *Stephanie Michaelis* wrote in opposition to the Project. She argues that landowners have had virtually zero chance to defend their rights. She cites the case of Donovan Dyrdal as an example. She notes his lands were taken through eminent domain and that his farming operations were disrupted. She states that his land is still affected. She believes that the upgrade to Line 67 should be denied until all landowners along the right-of-way are justly compensated and paid for the damages they have experienced.

13. *Written comments from the Minnesota Department of Commerce, Division of Energy Resources.* The Department reviewed the factors the Commission must

consider when making a determination in a Certificate of Need proceeding.¹⁷ In addition the Department reviewed the information Enbridge was required to provide under Minnesota Rules.¹⁸ Based on that review the Department recommended approval of the Certificate of Need for the Line 67 Station Upgrade Project in Marshall, Clearwater, Itasca Counties, Minnesota.

Dated: June 3, 2013

s/James E. LaFave

JAMES E. LAFAVE
Administrative Law Judge

Reported: Janet Shaddix & Associates

¹⁷ See, Minn. Stat. §§ 216B and 216C.

¹⁸ See, Minn. R. 7853.0130.

June 3, 2013

Burl Haar
Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square Building
121 Seventh Pl E
St. Paul, MN 55101

**Re: *In the Matter of the Application of Enbridge Energy, Limited
Partnership for a Certificate of Need for the Line 67 Station Upgrade
Project in Marshall, Clearwater, and Itasca Counties***
OAH 60-2500-30260
PUC PL-9/CN-12-590

Dear Dr. Haar:

Enclosed herewith and served upon you by mail is the Administrative Law Judge's **Summary of Public Testimony** in the above-entitled matter. The record will be sent under separate cover.

Sincerely,

s/James E. LaFave

JAMES E. LAFAVE
Administrative Law Judge

Telephone: (651) 312-1866

JEL:dsc
Enclosure
cc: Attached Service List

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ADMINISTRATIVE LAW SECTION
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CERTIFICATE OF SERVICE

In the Matter of the Application of Enbridge Energy, Limited Partnership for a Certificate of Need for the Line 67 Station Upgrade Project in Marshall, Clearwater, and Itasca Counties	OAH Docket No.: 60-2500-30260 PUC PL-9/CN-12-590
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Denise S. Collins, certifies that on June 3, 2013, she served a true and correct copy of the attached **SUMMARY OF PUBLIC TESTIMONY** by placing it in the United States mail or by courier service with postage prepaid, addressed to the following individuals:

Burl Haar
Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square Building
121 Seventh Pl E
St. Paul, MN 55101

Attached Service List

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LaFave	James	Office of Administrative Hearings	PO Box 64620, St. Paul, MN-55164-0620	Paper Service	Yes
Oraskovich	Ken	N/A	18495 470th St, Clearbrook, MN-56634	Paper Service	No
Rust	Carole A	N/A	1826 N Alameda St, Roseville, MN-55113	Paper Service	No
Tharaldson	Carole	N/A	41654 260th St SE, Gully, MN-56646	Paper Service	No
West	Gillette	N/A	3710 14th Ave S, Minneapolis, MN-55407	Paper Service	No

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